

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Historical Access

FROM:

DA/IRO
7D18 HQ

EXTENSION

NO.

DATE

23 Nov 83

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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EO/DDA

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In response to the request for my comments on ways to deal with the problem of Historical Access to Agency records, I have prepared the attached memo. What I have attempted to do here is to take a look at what was done in the past and to recommend a course of action to satisfy current requirements. While I have had many discussions with the other Directorate IROs, RMOs, C/History Staff, and OIS personnel over the past several weeks, the recommendations stated here are primarily mine. The concern over the release of records recorded in DARE is shared by all.

Attachment

cc: D/OIS
DI/IRO
DO/IRO
S&T/IRO
C/HS

2 November 1983

MEMORANDUM FOR THE RECORD

SUBJECT: Historical Access

1. Before we consider the former Systematic Classifications Review program or its product as a basis for an Historical Access program, we need to understand just what that program consisted of and its net results.

2. The action taken on documents by the Classification Review Division (CRD) to declassify or downgrade documents was to satisfy the systematic review provisions of EO 11652 and 12065. These actions did not constitute authority to release the documents. The documents were returned to the Agency Records Center after the CRD action and remain the property of the originating components, primarily the Directorate of Operations and the Directorate of Intelligence. There was an understanding at the time of the CRD review that any release or other use of these documents would need the approval of the originating or successor components on a document-by-document basis. This still holds true today--any release or other use of the documents reviewed by CRD and recorded in DARE must be approved by the originating or successor component.

3. The DARE computer system used to record CRD actions is very difficult to use at best. It was developed very quickly in 1977 without much thought given to other systems or other informational needs. Over time, additional items were added to the system on an ad hoc basis. For example, the system was originally designed to track records retired to the Agency Records Center; therefore, the accession, box, and folder numbers were integral parts of the system. However, entries were made of action taken on documents not retired to the Center; therefore, they cannot be tracked.

4. Another problem with documents recorded in the DARE system is that many of the actions were not coordinated with the originating or other interested components. There are documents listed as unclassified in DARE that remain classified (some at the TOP SECRET level) in the originators file, in the Office of Central Reference file, and in the case of TS, in the TOP SECRET inventory system TSCADS.

5. While the centralized systematic declassification program was administratively a success, it really did little to make records available to the public. I believe a similar program for Historical Access would have the same results. The principle that has been followed in releasing documents, whether as the results of an FOIA/PA

request, mandatory review under the EO 12065/12356 or litigation, has been an initial review by the originating or successor component. This initial review is followed by at least one additional review at a supervisory level. The documents proposed for release then go to a Directorate Information Review Office for a final review and Directorate coordination. There is still another review and external coordination before the document leaves the Agency. In the case of FOIA/PA, it is conducted by IPD; in the case of litigation, it is done by OGC. There is a computer system (DECAL) that records significant documents released. DECAL not only records the releases, but also automatically notifies the originator and other interested components so that all file copies reflect the release actions. This discussion is to show the difference between the systematic review and our current review process for releasing documents to the public.

6. I believe that we should avoid any program of pre-review of Agency records for the purpose of making them available for release. First of all, we may spend a lot of time on records that may never be requested; secondly, and more importantly, when a record is reviewed for release, it should be reviewed in the context of the world political situation at that time. One could argue that the situation could change after we release a particular record, and that is true. However, I go back to my first point--why do it until we are required to by statute. Why jeopardize programs when we can avoid or delay the process?

7. Another problem we can expect from advertisting the availability of records is the exploitation by commercial entities. There are companies that purchase from the Agency at 10¢ per page documents that we released through FOIA. These documents are collated, indexed, and sold to the public. The same thing would happen to documents included in an historical access program. Again, one could argue that once released, a document is subject to this type of exploitation, and again, the point is why subject Agency information, even sanitized information, unnecessarily to exploitation and possible use by an adversary until we are required to do so by statute.

8. There is currently a procedure on the books for historians to use Agency records. This is found in CFR 32, Chapter XIX at 1900.61, entitled, "Access for Historical Research." This procedure differs from the FOIA/EO mandatory procedures in that a researcher with a security clearance can use full-text Agency records and submit his notes and manuscript for review to assure that they contain no classified information. There have only been a few instances where researchers have attempted to use this procedure and it never worked well. Now, the Agency refuses access under this procedure. In one

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9. The above notwithstanding, it is obvious from the concessions made in the Senate-passed Intelligence Information Act of 1983, from [redacted] and from the need to publish a workable rule concerning historical access that we must address this problem now. The SSCI expects the Agency to "set up a new program to declassify historical documents." Requests for historical information usually fall into one of three general categories: (1) the administrative history of the Agency, (2) information produced by the Agency, i.e., World Oil Production, and (3) information on Agency operations, i.e., the Bay of Pigs. In regard to the administrative history, we release some things through Public Affairs. As for item (2), a large volume of Agency publications are released to the public through the Library of Congress DOCEX program, the Department of Commerce NTIS program, and the GPO FDLP program. These releases consist of FBIS Daily Reports, JPRS translations, and DDI-originated, unclassified reports and maps. We can increase and publicize our efforts in these areas. The problem then is in category three—information concerning Agency operations.

10. What can be immediately made available are those documents released through the FOIA and mandatory review programs now recorded in the IPD DECAL system. While I believe that a renewed systematic review program is not the answer to add documents to those in DECAL that can be released, I believe that the Agency must take the initiative and to the extent possible, control what is considered for release for historical purposes. What is needed is the application of the FOIA mandatory review procedures to a review for historical access. The Agency historian should, based on his liaison with the historians in other Federal agencies; the National Archives, including the Presidential libraries; and historians in general, select the topics to be reviewed. This selection should be discussed with records management officers in the appropriate directorates. The RMOs in consultation with the historian, select the records to be reviewed. The actual review should be conducted under the procedures used for FOIA/mandatory review. The documents determined releasable in whole or in part should be recorded in the DECAL system. By recording them in DECAL, we not only create a record of what is available to historians, but also make them available to satisfy future FOIA requests. I believe that this process meets the criteria for historical access outlined in Senator Durenberger's letter of 3

October 1983, the commitment of the DCI in his reply of 4 October 1983, as well as safeguard sensitive Agency records.

11. Additional resources that may be forthcoming for an historical review program should be apportioned to the directorates involved in the historical review. Of course the alternative to the originating or successor components conducting the initial review is to have a centralized review; however, to be acceptable and successful, officers from the various components would have to be rotated on a regular basis. There must be people with current experience in the program areas who are able to relate the current situation to both past and projected activities and operations. Even with assignments on a rotational basis, there would not be the direct expertise needed, i.e., in the DA, it varies from personnel to finance; in the DI, from political to economical; in the DO, from various parts of the world; and in the S&T, even more diversity.

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DDA/MS: [redacted] (23Nov83)

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